

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 253

[Docket No. 2006-2 CRB NCBRA]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges, on behalf of the Copyright Royalty Board of the Library of Congress, announce a cost of living adjustment of 1.3% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions in the ASCAP, BMI and SESAC repertoires. The cost of living adjustment is based on the change in the Consumer Price Index from October 2005 to October 2006.

EFFECTIVE DATE: January 1, 2007.

FOR FURTHER INFORMATION CONTACT: Gina Giuffreda, Attorney Advisor, or Abioye E. Oyewole, CRB Program Specialist. Telephone: (202) 707-7658. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals.

17 U.S.C. 118(c).

The most recent proceeding to consider the terms and rates for the section 118 license occurred in 2002. 67 FR 15414 (April 1, 2002). Final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works for the license period beginning January 1, 2003, and ending December 31, 2007, were published in the **Federal Register** on December 17, 2002. 67 FR 77170 (December 17, 2002). Pursuant to these regulations, on December 1 of each year the Librarian shall publish a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to the previous notice, to the most recent Index published prior to December 1 of that year. 37 CFR 253.10(a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10(b). Accordingly, the Copyright Royalty Judges, on behalf of the Copyright Royalty Board of the Library of Congress, are hereby announcing the change in the Consumer Price Index and performing the annual cost of living adjustment to the rates set out in § 253.5(c).

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 2005, to the most recent Index published before December 1, 2006, is 1.3% (2005's figure was 199.2; the figure for 2006 is 201.8, based on 1982-1984 = 100 as a reference base). Rounding off to the nearest dollar, the royalty rates for the use of musical compositions in the repertoires of

ASCAP, BMI, and SESAC are \$277, \$277, and \$90, respectively.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

Final Regulations

For the reasons set forth in the preamble, part 253 of title 37 of the Code Federal Regulations is amended as follows:

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(3) as follows:

§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

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(c) * * *

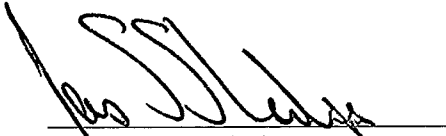
(1) For all such compositions in the repertory of ASCAP, \$277 annually.

(2) For all such compositions in the repertory of BMI, \$277 annually.

(3) For all such compositions in the repertory of SESAC, \$90 annually.

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Dated: November 22, 2006

A handwritten signature in black ink, appearing to read "James Scott Sledge", written over a horizontal line.

James Scott Sledge,
Chief Copyright Royalty Judge,
Copyright Royalty Board.

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